

**ESKRIDGE LAW**

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Attorneys for Defendant CAL-GOLF, INC.

CONFORMED COPY  
OF ORIGINAL FILED  
Los Angeles Superior Court

DEC 22 2010

John A. Clarke, Executive Officer/Clerk  
By A.E. LaFleur-Clayton, Deputy

**SUPERIOR COURT FOR THE STATE OF CALIFORNIA**

**COUNTY OF LOS ANGELES – CENTRAL DISTRICT**

**ANTELOPE VALLEY  
GROUNDWATER CASES**

Included Actions:

Los Angeles County Waterworks District  
No. 40 v. Diamond Farming Co., Superior  
Court of California, County of Los Angeles,  
Case No. BC325201;

Los Angeles County Waterworks District  
No. 40 v. Diamond Farming Co., Superior  
Court of California, County of Kern, Case  
No. S-1500-CV-254-348;

Wm. Bolthouse Farms, Inc. v. City of  
Lancaster, Diamond Farming Co. v. City of  
Lancaster, Diamond Farming Co. v.  
Palmdale Water District., Superior Court of  
California, County of Riverside, Case Nos.  
RIC 353 840, RIC 344 436, RIC 344 668

Judicial Council Coordination No. 4408

Santa Clara Case No. 1-05-CV-049053  
Assigned to the Hon. Jack Komar

**ANSWER OF CAL-GOLF, INC. TO COMPLAINT  
AND ALL CROSS-COMPLAINTS**

TO ALL PARTIES HEREIN AND TO THEIR ATTORNEYS OF RECORD:

CAL-GOLF, INC. hereby answers the Complaint and all Cross-complaints which have been filed as  
of this date, specifically those of Antelope Valley East-Kern Water Agency, Palmdale Water District &  
Quartz Hill Water District, Rosamond Community Services District and Los Angeles County Waterworks  
District No. 40.

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CAL-GOLF, INC. owns the following properties located in the Antelope Valley:

1) Vic Avenue A4 283 STW, Fairmont CA 93536

Assessor's Parcel No. 3275-021-010

2) Vic Avenue A4 285 STW, Fairmont CA 93536

Assessor's Parcel No. 3275-021-012

### **GENERAL DENIAL**

1. Pursuant to Code of Civil Procedure section 431.30(d), CAL-GOLF, INC. hereby generally denies each and every allegation set forth in the Complaint and Cross-complaints, and the whole thereof, and further denies that Plaintiff and Cross-complainants are entitled to any relief against CAL-GOLF, INC.

### **AFFIRMATIVE DEFENSES**

#### **First Affirmative Defense**

##### **(Failure to State a Cause of Action)**

2. CAL-GOLF, INC. alleges that the Complaint and Cross-complainants, and each and every purported cause of action contained therein, fail to allege facts sufficient to constitute a cause of action against CAL-GOLF, INC.

#### **Second Affirmative Defense**

##### **(Claims Not Authorized by Statute)**

3. CAL-GOLF, INC. alleges that Plaintiff and Cross-complainants are not authorized by statute to exercise the power of eminent domain for the purpose(s) stated in their Complaint and Cross-complaints.

#### **Third Affirmative Defense**

##### **(Allegations Exceed Statutory Authority of the Water Code)**

4. The prescriptive claims asserted by Plaintiffs and Cross-complainants are *ultra vires* and exceed the statutory authority by which each entity may acquire property as set forth in Water Code sections 22456, 31040, and 55370.

1 **Fourth Affirmative Defense**

2 **(Civil Code sections 1007 and 1214)**

3 5. Cross-complainants are barred from asserting their prescriptive claims by operation of law  
4 as set forth in Civil Code sections 1007 and 1214.

5  
6 **Fifth Affirmative Defense**

7 **(Failure to Properly Adopt Resolution)**

8 6. Governmental entities Plaintiff and Cross-complainants are public entities and have not  
9 properly adopted resolutions of necessity that satisfy the requirements of Article 2 (commencing with section  
10 1245.210) of Chapter 4 of Title 7 of the Code of Civil Procedure.

11  
12 **Sixth Affirmative Defense**

13 **(Code of Civil Procedures sections 1240.410, 1240.510, and 1240.610)**

14 7. The claims of governmental entities Plaintiff and Cross-complainants fail to satisfy the  
15 requirements of Code of Civil Procedure sections 1240.410 (excess condemnation), 1240.510 (condemnation  
16 for compatible use), or 1240.610 (condemnation for more necessary public use).

17  
18 **Seventh Affirmative Defense**

19 **(Code of Civil Procedures sections 1240.610)**

20 8. The claims of governmental entities Plaintiff and Cross-complainants fail to satisfy the  
21 requirements of Code of Civil Procedure sections 1240.610 (condemnation for more necessary public use).

22  
23 **Eighth Affirmative Defense**

24 **(Code of Civil Procedures sections 1240.630)**

25 9. CAL-GOLF, INC. has the right under Code of Civil Procedure section 1240.630 to continue  
26 the public use to which the property is appropriated as a joint use.

27 ///

28 ///

**Ninth Affirmative Defense**

**(Not a Public Use)**

10. The governmental entities Plaintiff and Cross-complainants do not intend to devote the property to the purpose(s) stated in the Complaint and Cross-complaints and/or the use which is intended by the governmental entities Plaintiff and Cross-complainants is not a public use.

**Tenth Affirmative Defense**

**(Lack of Public Interest and Necessity)**

11. The public interest and necessity do not require the proposed project.

**Eleventh Affirmative Defense**

**(Not Compatible With the Greatest Public Good and the Least Private Injury)**

12. The proposed project is not planned or located in the manner that will be most compatible with the greatest public good and the least private injury.

**Twelfth Affirmative Defense**

**(CAL-GOLF, INC.'s Property Not Necessary for the Proposed Project)**

13. CAL-GOLF, INC.'s property is not necessary for the proposed project.

**Thirteenth Affirmative Defense**

**(California Constitution, Article 1, Section 7)**

14. The prescriptive claims asserted by the governmental entities Plaintiff and Cross-complainants are barred by the provisions of Article 1, Section 7 of the California Constitution.

**Fourteenth Affirmative Defense**

**(California Constitution Article 1, Section 19)**

15. The prescriptive claims asserted by the governmental entities Plaintiff and Cross-complainants are barred by the provisions of Article I, Section 19 of the California Constitution.

**Fifteenth Affirmative Defense**

**(California Constitution, Article 3, Section 3)**

16. The request for the court to use its injunctive powers to impose a physical solution seeks a remedy that is in violation of the doctrine of separation of powers set forth in Article 3, Section 3 of the California Constitution.

**Sixteenth Affirmative Defense**

**(California Constitution Article 10, Section 2)**

17. Plaintiff's and Cross-defendants' methods of water use and storage are unreasonable and wasteful in the arid conditions of the Antelope Valley and thereby violate Article 10, Section 2 of the California Constitution.

**Seventeenth Affirmative Defense**

**(United States Constitution, Fifth Amendment)**

18. The prescriptive claims asserted by the governmental entities Plaintiff and Cross-complainants are barred by the provisions of the Fifth Amendment to the United States Constitution as applied to the states under the Fourteenth Amendment to the United States Constitution.

**Eighteenth Affirmative Defense**

**(United States Constitution, Fourteenth Amendment)**

19. The prescriptive claims asserted by the governmental entities Plaintiff and Cross-complainants are barred by the provisions of the Fourteenth Amendment to the United States Constitution.

**Nineteenth Affirmative Defense**

**(United States Constitution – Due Process)**

20. The prescriptive claims asserted by the governmental entities Plaintiff and Cross-complainants are barred due to the failure of Cross-complainants to take affirmative steps that were reasonably calculated and intended to inform each overlying landowner of CAL-GOLF INC.'s adverse and hostile claim as

1 required by the due process clause of the Fifth and Fourteenth Amendments of the United States  
2 Constitution.

3  
4 **Twentieth Affirmative Defense**

5 **(Permissive Use)**

6 21. The governmental entities Plaintiff and Cross-complainants are permissively pumping at all  
7 times.

8  
9 **Twenty-First Affirmative Defense**

10 **(Statute of Limitations)**

11 22. CAL-GOLF, INC. alleges that the Complaint and Cross-complaints, and each and every cause  
12 of action therein, are or may be barred by the applicable statutes of limitations.

13  
14 **Twenty-Second Affirmative Defense**

15 **(Laches)**

16 23. CAL-GOLF, INC. alleges that the Complaint and Cross-complaints, and each and every cause  
17 of action therein, are barred by the doctrine of laches.

18  
19 **Twenty-Third Affirmative Defense**

20 **(Estoppel)**

21 24. CAL-GOLF, INC. alleges that the Complaint and Cross-complaints, and each and every cause  
22 of action therein, are barred by the doctrine of estoppel.

23  
24 **Twenty-Fourth Affirmative Defense**

25 **(Waiver)**

26 25. CAL-GOLF, INC. alleges that the Complaint and Cross-complaints, and each and every cause  
27 of action therein, are barred by the doctrine of waiver.

28 ///

1                                   **Twenty-Fifth Affirmative Defense**

2   **(Self-Help)**

3           26.     CAL-GOLF, INC. has, by virtue of the doctrine of self-help, preserved its paramount  
4     overlying right to extract groundwater by continuing, during all times relevant hereto, to extract groundwater  
5     and put it to reasonable and beneficial use on its property.

6  
7                                   **Twenty-Sixth Affirmative Defense**

8   **(Unclean Hands/Unjust Enrichment)**

9           27.     Each Cross-complainant is barred from recovering under each and every cause of action  
10    contained in the Cross-complaints by the doctrine of unclean hands and/or unjust enrichment.

11  
12                                  **Twenty-Seventh Affirmative Defense**

13   **(Failure to Name Indispensable Parties)**

14           28.     Each Cross-complainant is defective because it fails to name indispensable parties in violation  
15    of Code of Civil Procedure section 389(a).

16  
17                                  **Twenty-Eighth Affirmative Defense**

18   **(Just Compensation)**

19           29.     The governmental entities Plaintiff and Cross-complainants are barred from taking,  
20    possessing, or using Cross-defendants' property without first paying just compensation.

21  
22                                  **Twenty-Ninth Affirmative Defense**

23   **(California Environmental Quality Act)**

24           30.     The governmental entities Plaintiff and Cross-complainants are seeking to transfer water right  
25    priorities and water usage which will have significant effects on the Antelope Valley Groundwater basin and  
26    the Antelope Valley. Said actions are being done without complying with, and contrary to, the provisions  
27    of the California Environmental Quality Act (CEQA). [Pub.Res.C. 2100 *et seq.*]

28    ///

1 **Thirtieth Affirmative Defense**

2 **(California Environmental Quality Act)**

3 31. The governmental entities Plaintiff and Cross-complainants are seeking judicial ratification  
4 of a project that has had and will have a significant effect on the Antelope Valley Groundwater Basin and  
5 the Antelope Valley that was implemented without providing notice in contravention of the provisions of  
6 the California Environmental Quality Act (CEQA). [Pub.Res.C. 2100 *et seq.*]  
7

8 **Thirty-First Affirmative Defense**

9 **(California Environmental Quality Act)**

10 32. Any imposition by this court of a proposed physical solution that reallocates the water right  
11 priorities and water usage within the Antelope Valley will be *ultra vires* as it will be subverting the pre-  
12 project legislative requirements and protections of the California Environmental Quality Act (CEQA).  
13 [Pub.Res.C. 2100 *et seq.*]  
14

15 **Thirty-Second Affirmative Defense**

16 **(Allegations Lack Sufficient Clarity)**

17 33. The Complaint and Cross-complaints do not state their allegations with sufficient clarity to  
18 enable CAL-GOLF, INC. to determine what additional defenses may exist to Plaintiff's and Cross-  
19 defendants' causes of action. CAL-GOLF, INC. therefore reserves the right to assert all other defenses which  
20 may pertain to the Complaint and Cross-complaints.  
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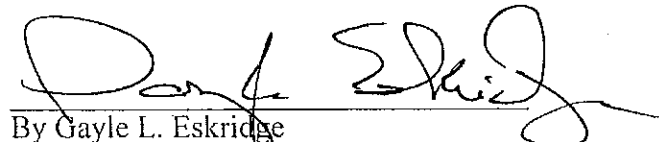
**PRAYER**

WHEREFORE, CAL-GOLF, INC. prays that judgment be entered as follows:

- a) That Plaintiff and Cross-complainants take nothing by reason of their Complaint and/or Cross-complaints;
- b) That the Complaint and Cross-complaints be dismissed with prejudice;
- c) For attorney's fees, litigations expenses, and costs of suit; and
- d) For such other and further relief as the court may deem just and proper.

Dated: December 22, 2010

ESKRIDGE LAW

  
By Gayle L. Eskridge  
Attorneys for Cross-defendant CAL-GOLF, INC.

**ESKRIDGE LAW**

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**Judicial Council Coordination No. 4408**

**Santa Clara Case No. 1-05-CV-049053  
Assigned to the Hon. Jack Komar**

**PROOF OF SERVICE**

I, Rod Bandt, declare under penalty of perjury that I am over the age of 18 years and not a party to this action, and that on this date I served the individuals listed on the following page with the following documents:

**ANSWER OF CAL-GOLF, INC. TO COMPLAINT AND ALL CROSS-  
COMPLAINTS**

1 Individuals served:

2 **BEST BEST & KRIEGER, LLP**  
3 Attn: Jeffrey V. Dunn  
4 Eric L. Garner  
5 Stephanie D. Hedlund  
6 5 Park Plaza, Suite 1500  
7 Irvine, CA 92614

Attorneys for Cross-complainants  
ROSAMOND COMMUNITY SERVICES  
DISTRICT and LOS ANGELES COUNTY  
WATERWORKS DISTRICT NO. 40

8 **OFFICE OF COUNTY COUNSEL**  
9 **COUNTY OF LOS ANGELES**  
10 Attn: Raymond G. Fortner, Jr.  
11 Frederick W. Pfaeffle  
12 500 West Temple Street  
13 Los Angeles, CA 90012

Attorneys for Cross-complainant LOS  
ANGELES COUNTY WATERWORKS  
DISTRICT NO. 40

14 **STRADLING YOCCA CARLSON & RAUTH**  
15 Attn: Douglas J. Evertz  
16 660 Newport Center Drive, Suite 1600  
17 Newport Beach, CA 92660

Attorneys for City of Lancaster

18 **RICHARDS WATSON & GERSHON**  
19 Attn: James L. Markman  
20 Steven Orr  
21 355 S. Grand Avenue, 40th Floor  
22 Los Angeles, CA 90071-3101

Attorneys for City of Palmdale

23 **LEMIEUX & O'NEILL**  
24 Attn: Wayne Lemieux  
25 2393 Townsgate Road, Suite 201  
26 Westlake Village, CA 91361

Attorneys for Littlerock Creek Irrigation  
District and Palm Ranch Irrigation District

27 **LAGERLOF SENEAL BRADLEY GOSNEY**  
28 **& KRUSE**  
Attn: Thomas Bunn III  
301 North Lake Avenue, 10th Floor  
Pasadena, CA 91101-4108

Attorneys for Palmdale Water District and  
Quartz Hill Water District

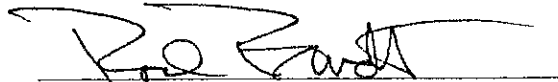
29 **CALIFORNIA WATER SERVICE**  
30 **COMPANY**  
31 Attn: John Tootle  
32 2632 West 237th Street  
33 Torrance, CA 90505

34 Service was in the manner checked and on the date set forth below:

- 35 1) \_\_\_\_\_ By personally delivering copies to the individual listed above at the address listed  
36 above. [*Code of Civil Procedure § 1011*]  
37 2) \_\_\_\_\_ By personally delivering copies to the office of the individual listed above at the  
38 address listed above, in a package clearly labeled to identify the person being served,  
with a receptionist or with a person in charge. [*Code of Civil Procedure § 1011*]

- 1 3) \_\_\_\_\_ By personally leaving copies in a conspicuous place at the office of the individual  
2 listed above at the address listed above, between the hours of 9:00 a.m. and 5:00 p.m.  
[Code of Civil Procedure § 1011]
- 3 4) ✓ \_\_\_\_\_ By placing a copy in a separate envelope, with postage fully prepaid, addressed to the  
4 individual listed above at the address listed above, and depositing it in the U.S. Mail  
at Torrance, California. [Code of Civil Procedure §§ 1012 and 1013(a)]
- 5 5) \_\_\_\_\_ By sending a copy directed to the individual listed above, via facsimile machine to  
6 the following facsimile number:  
7 XXX/XXX-XXXX  
8 [Code of Civil Procedure § 1013(e)]
- 9 6) \_\_\_\_\_ By depositing a copy in a Federal Express box, in an envelope designated by Federal  
10 Express with delivery fees paid or provided for, addressed to the individual listed  
above, at the address listed above. [Code of Civil Procedure § 1013(c)]

11 Executed on December 22, 2010 at Torrance, California.

12   
13 \_\_\_\_\_  
14 Rod Bandt